

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

CINTHIA THEVENIN, individually, and as  
wife of EDSON THEVENIN, Decedent, and  
as Administratrix of the Estate of EDSON  
THEVENIN, and as mother and natural  
guardian of Infant N.T. and as mother and  
natural guardian of Infant Z.T,

Plaintiff,

—against—

THE CITY OF TROY and SERGEANT  
RANDALL FRENCH,

Defendants.

16-CV-1115(DJS)

DECLARATION OF  
MICHAEL ROSE

MICHAEL ROSE, an attorney admitted to practice in the courts of the United States District Court for the Northern District of New York, declares the following, under the penalties of perjury

1. I am a partner in the firm of Hach & Rose, LLP which together with the firm of Harfenist Kraut & Perlstein, LLP, are attorneys for Plaintiff CINTHIA THEVENIN, who has filed suit as in her capacity as administratrix of the Estate of EDSON THEVENIN, as well in her capacity as wife of EDSON THEVEIN and mother and natural guardian of N.T. and Z.T. who are EDSON THEVENIN's children.

2. I am fully familiar with the facts and circumstances of this matter as set forth herein.

3. This Declaration is submitted in opposition to Defendants' letter application of July 8, 2019 (DE 116) seeking to depose me in order to reveal the source who advised me of the Defendants' ISB report which had not been disclosed by Defendants in discovery.

4. Defendants' application is at least the third attempt by defense counsel to seek my deposition in the last two years.

5. As more thoroughly discussed in the letter brief which accompanies this declaration, there is scant precedent to depose counsel of record for a party in a litigation.

6. Furthermore, the Defendants' application is filled with wild accusations of unethical conduct without any factual basis and is personally offensive.

7. Regardless, in order to dispel the Defendants' specious concerns, I am submitting this declaration to clarify that the source who called me about the ISB report stated to me that he is not a Troy employee, nor is he employed by the Troy Police Department.

8. During my brief conversation with the source he did not provide me with any substantive information about the ISB report and I was unaware of the ISB report's findings before the report was e-mailed by Defendants' counsel at 5:15PM on Tuesday July 8<sup>th</sup>.

9. Lastly, as the source stated to me that he would like to remain anonymous, any compelled disclosure of the identity would hinder my ability to effectively represent my client and would effectively chill any attorney's role as an advocate for their client.

Dated: Lake Success, New York  
July 12, 2019

By: *Michael Rose*  
Michael Rose